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TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

REPORT

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ON

H.R. 4961

together with

ADDITIONAL SUPPLEMENTAL AND MINORITY VIEWS

JULY 12, 1982.—Ordered to be printed

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TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

JULY 12, 1982.—Ordered to be printed

Mr. DOLE, from the Committee on Finance,
submitted the following

REPORT

together with

ADDITIONAL, SUPPLEMENTAL, and MINORITY VIEWS

[To accompany H.R. 4961]

The Committee on Finance, to which was referred the bill (H.R. 4961) to make miscellaneous changes in the tax laws, having considered the same, reports favorably thereon with amendments and an amendment to the tital and recommends that the bill as amended do pass.

VOLUME 2:
AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1982

[Title IV of H.R. 4961, as Reported by the Committee on Finance]

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AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1982

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AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1982*

Purpose of Bill

The bill, as reported, would reauthorize the airport and airway development program for fiscal years 1982 through 1987 and makes a number of amendments to the existing program to promote the safety and development of the airport and airway system.

Background and Legislative History

The Airport and Airway Development Act was originally enacted in 1970. It established the Airport and Airway Development Program (ADAP) to provide Federal assistance for badly needed improvements in the safety and capacity of our Nation's airport and airway system. A companion bill also established the Airport and Airway Trust Fund, which is funded through various aviation user taxes, to pay the Federal share of these projects.

In the 96th Congress, the Senate passed S. 1648, on February 5, 1980, but the House of Representatives failed to consider this bill prior to the end of the 96th Congress. As a result, most of the expenditure and revenue programs in the existing law lapsed on October 1, 1980, for lack of an authorization for fiscal year 1981.

On April 29, 1981, the full Committee on Commerce, Science, and Transportation marked up S. 508. The major change in the law proposed by S. 508 was a provision to make the nation's 69 largest airports ineligible for federal airport development assistance. Under S. 508, airports that were "defederalized" would have been authorized to collect a "passenger facility charge", or a head tax, to offset the lost federal contribution.

The House of Representatives Committee on Public Works did not report out a bill in 1981. In December, 1981, the Federal Aviation Administration (FAA) issued a report on a program to modernize the nation's air traffic control system. The National Airspace System Plan (NASP) required expenditures substantially in excess of those contemplated under S. 508 for the FAA's Facilities and Equipment and the Research and Development programs. It also became clear that, due to strong opposition to defederalization coupled with the passenger facility charge by most user groups and many of the 69 airports, S. 508 could not successfully serve as a vehicle for new legislation. As a result, the Aviation Subcommittee, working with the Department of Transportation, the airports and various user groups, put together a new compromise proposal based on S. 508 as amended in 1981.

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*Title IV of the bill, H.R. 4961, as reported by the Committee on Finance. The provisions of the Airport and Airway System Development Act of 1982 are included in the Committee on Finance report upon the request of the Committee on Commerce, Science, and Transportation.

On May 24, 1982, the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation held hearings on proposed amendments, introduced by Senator Kassebaum and cosponsored by Senator Packwood, to S. 508 and on the NASP. A second hearing on the NASP was held by the Subcommittee on June 24, 1982.

This substitute contains most of the provisions of S. 508 as amended, along with the revisions which implement the funding compromise. The amendments provide a voluntary defederalization program with no passenger facility charge. The amendments also substantially increase funding levels for airport development and FAA programs. On June 29, 1982, the Committee on Commerce, Science, and Transportation requested the Committee on Finance to attach the amended S. 508 to the revenue provisions of the Reconciliation bill, H.R. 4961, as amended by the Committee on Finance. This unusual procedure is required to ensure that the spending program is enacted at the same time as the aviation user taxes are enacted.

Summary of Major Provisions

Authorizations.—The bill provides the authority for the Secretary to make grants for airport development and planning for each of the fiscal years 1982 through 1987. The authority refers to aggregate amounts, so that funds not obligated in one fiscal year are available for obligation in later years.

Section 7 would authorize expenditures from the Trust Fund for the procurement of air navigational facilities; research, engineering and development activities; payment of a portion of the operation and maintenance costs of the national airspace system; and other activities related to airway improvement.

The authorization levels from the Airport and Airway Trust Fund for fiscal years 1982–1987 are as follows:

[In millions of dollars]

	Fiscal year—					
	1982	1983	1984	1985	1986	1987
AIAP grants-in-aid	450.0	600.0	600.0	600.0	1,049.4	1,206.8
Facilities and equipment	261.0	725.0	1,393.0	1,407.0	1,377.0	1,164.0
Research and development	72.0	134.0	286.0	269.0	215.0	193.0
Operations and maintenance	800.0	1,559.0	1,355.0	1,362.0	1,388.0	1,444.0
Total	1,733.0	3,018.0	3,634.0	3,638.0	4,029.4	4,007.8

State participation.—Qualifying States would be given a block grant to administer for small commercial service airports and general aviation airports within their boundaries. $428 million over 6 years would be allocated to the States for this purpose. Airports located in nonparticipating States would continue to apply to the Secretary of Transportation to obtain their project grants (secs. 8 and 12).

Apportionments to airports.—The bill provides for money to be apportioned from the Trust Fund both on the basis of need (as de-

termined in the discretion of the Secretary) and on the basis of enplanements at eligible airports. Within the discretionary fund, 6-year minimum guarantees are provided for reliever, general aviation, and small air carrier airports which are located in States which do not participate in the State program as follows:

Type of airport:	*Amount (millions)*
Reliever airports	$450
General aviation airports	$300
Small air carrier airports located in nonparticipating States.[1]	

[1] Historical amount received under ADAP for high priority projects (sec. 8).

Defederalization.—The bill permits any airport to withdraw from the airport development program and thereby be released from some federal statutory and regulatory burdens. Any airport that opts out remains eligible for federal funds for land acquisition and noise abatement (sec. 26).

Summary of Major Issues

1. AUTHORIZATIONS FOR AIRPORT DEVELOPMENT AND PLANNING

Section 6 of the bill provides the authority for the secretary to make grants for airport development and planning of $450 million for fiscal year 1982; $600 million for fiscal years 1983–1985; $1,049.4 million in 1986; and $1,206.8 million in 1987. The authority refers to aggregate amounts, so that funds not obligated in one fiscal year are available for obligation in later years. The amounts authorized are consistent with those contained in the First Budget Resolution.

This section would for the first time provide that airport development and planning funds may be distributed for use not only at public airports, but also at privately owned reliever airports under certain conditions. This change has been made because privately owned reliever airports serve a public purpose and, in some cases, their improvement may be in the national interest. In the absence of Federal funding for such facilities, some of them may be closed or sold for non-airport purposes, and consequently lost to the national aviation system.

It should be emphasized that, under this bill, Federal funds may be used at a privately owned reliever airport only if it is available for public use, and, if the Secretary determines that such an airport is "essential" to the national system. This is an important and needed change to the law in the opinion of the Committee on Commerce Science and Transportation.

2. AIRWAY IMPROVEMENT PROGRAM

Section 7 would authorize appropriations from the Trust Fund for the procurement of air navigational facilities; research, engineering and development activities; payment of a portion of the operation and maintenance costs of the national airspace system; and other activities related to airway improvement. Section 7 would replace subsections 14(c)–14(f) of the present act.

Section 7(a) would provide Trust Fund authorizations for appropriations for the acquisition, establishment and other improvement of air navigation facilities. Under section 14(c) of the present act the authorization for appropriations for air navigation facilities for

each fiscal year lapses at the end of the fiscal year to which it pertains. This subsection would permit such authorizations to be carried over or aggregated with the authorizations for the succeeding fiscal years covered in the proposed legislation (i.e., the 6 fiscal years, 1982–87). Thus, under this proposal, to the extent that an expenditure for a given fiscal year is less than the authorization for that fiscal year, the excess authorization remains available to support an additional appropriation during succeeding fiscal year, through fiscal year 1987.

Finally, it should be noted that the amounts authorized by this section represent a significant increase in the size of the program; the present act authorized appropriations for $250 million for fiscal year 1980. These funds are being authorized to enable implementation of the initial five-year phase of the National Airspace System Plan. This plan is critical to the much needed upgrading of the air traffic control system and aviation weather services. The first phase of this program will be directed principally toward replacing the current equipment in the en-route traffic centers with new hardware and software that will increase the capacity of the system while maintaining the highest levels of safety. The Committee believes these authorizations are of the highest priority as they directly impact aviation safety.

Section 7(b) would provide annual authorizations for research, engineering, development and demonstrations, with all amounts appropriated pursuant to these authorizations remaining available for obligation until expended.

3. OPERATIONS AND MAINTENANCE

Section 7(c) authorizes the appropriation of trust fund moneys to finance a portion of the costs of providing air navigation services and maintaining air navigation facilities. The authorizations provided for operations and maintenance are as follows:

Fiscal year:	*Amount (in millions)*
1982	800
1983	1,559
1984	1,355
1985	1,362
1986	1,388
1987	1,444

This represents more than a doubling of the authorizations contained in S. 508 as introduced and a departure from past practices.

The Trust Fund was principally set up to provide money for the capital development of the airport and airway system. The fund was not originally established to pay for the operating and maintenance costs of the FAA as a top priority. However, due to pressure from various administrations, some contributions to operations and maintenance (O&M) have been approved.

The current administration has proposed that nearly the entire operating budget of the FAA be paid from the Trust Fund. While the Committee supports an increase in the users' contribution to FAA operations and maintenance, it is our belief that the general public reaps important benefits from the air system and therefore, should bear a fair share of its costs. In many communities, airports are the heart of the economic life in the area. One study, for exam-

ple, shows that in 1979 in Atlanta, air transportation created a $2 billion impact on the local economy. This economic benefit is repeated over and over at airports throughout the Nation (approximated to be $30 billion nationwide). Such benefits underlie the rationale for charging some of the costs of the air system to the general public.

Under the bill, users would contribute several billions more than they would have under S. 508 as introduced and O&M will receive a higher level of funding than any other expenditure program under the bill. This means users would pay more than double their current share of FAA's operations and maintenance costs, in addition to paying 100 percent of capital costs under the program. It is important to note, however, that these figures would require a continuing contribution to the air system from the general taxpayer who also reaps benefits from the safe and efficient operation of the system.

4. APPORTIONMENT

Section 8 provides for the apportionment of funds authorized for airport development and airport planning in a manner more appropriate to the post airline deregulation era and for enhanced discretion on the part of the Secretary to move the available funds to the highest priority projects.

The present Act required the administration of separate Federal aid programs for airport development at air carrier, air commuter service, reliever and general aviation airports as well as a separate program for airport planning. This proposal would combine the grant and planning programs for all such airports into a single grant program for airport development and planning.

This combination of programs should improve investment decisions. Many of the present separate programs are funded at relatively low levels approximately $15 million annually. After such amounts are divided to meet needs throughout the States and territories, individual airports typically do not receive amounts sufficient to accomplish significant development projects. This is particularly true at about 300 of the smaller airports currently categorized as "non-hubs", all of which currently receive annual apportionments of either $50,000 or $150,000. Such amounts are usually inadequate to fund desirable projects. This leads airport sponsors either to seek supplemental grants from the Secretary's discretionary funds or to use their apportioned funds on smaller projects, even when the accomplishment of a single project would be preferable. By combining the separate programs, the bill would give sponsors access to larger funding pools and would allow funds to be used to meet a wide range of priority needs.

This section also establishes apportionment categories which are consistent with the aviation regulatory environment created by passage of the Airline Deregulation Act of 1978. Under the deregulation act, the current Civil Aeronautics Board and most of its functions are phased out between now and January 1, 1985. An airport development program for the post-CAB era must provide for investment decisions to be made without reference to criteria

which had meaning only in the pre-deregulation environment, that is, "airports served by air carriers certified by the CAB."

This section calls for the determination of apportionments based primarily on the number of revenue passenger emplanements at an airport. However, the proposed system of apportionments also provides recognition to an airport's status as a reliever airport and provides some apportionments on the basis of a State's size and population. Regardless of the advent of deregulation, this realinement of apportionment categories reflects a belief that the classification of airports as "air carrier", "commuter", or "general aviation" do not represent distinctions which correspond sufficiently to actual airport development needs, and that the real needs can be better met with greater flexibility to move funds among the categories.

Single-year guarantees for certain types of airports in the current act are replaced with 6-year guarantees so that the flexibility desired is achieved while also giving the airports some assurance that no category will be funded in total below a minimum level.

The proposal would also modify but continue the discretionary funds program concept of the present act. There would be a single discretionary fund for airport development and planning.

This section also establishes that a portion of the section 6 funds for each fiscal year are to be apportioned by the Secretary to primary airports. The apportionment formula set forth in this section is the one used in the present Act in making apportionments for air carrier airports for 1982 and 1983. For 1984 through 1987 the funds available to an airport under the formula increase by 30 percent. Those air carrier airports which qualify as primary airports will continue in all cases to receive funds directly from the Federal Government as under the present Act.

The present Act contains a provision in section 15(a)(3)(A), which limits apportionments to air carrier airports to two-thirds of the total airport development funds authorized under the present Act. This bill reduces the apportionment category limit to 50 percent of the total program authorization, reflecting the fact that, under this proposal, some of the present air carrier airports will receive airport development and planning funds under other sections and some may eventually be eliminated from the program.

5. DISCRETIONARY FUND

Section 8 establishes a discretionary fund for airport development and planning projects.

All airport development and planning funds not apportioned under sections 8(b) (1) and (2) are available as discretionary funds.

The discretionary fund concept is taken from the present act, under which separate discretionary funds are maintained for "air carrier" and "general aviation" airports. Under this proposal, consistent with the overall apportionment scheme proposed, a single discretionary fund is established for all eligible airport development and planning. Further, in the administration of the discretionary fund, it is intended that appropriate resources within the fund will be identified in advance to support major and costly projects.

The discretionary fund provides minimum, 6-year guarantees for reliever, general aviation and smaller air carrier airports. The committee wishes to emphasize that these minimums are just that, a minimum guarantee, not a maximum, not an average, and we expect more to be spent in meeting the needs of these airports. By setting a minimum and having a large discretionary fund with the flexibility to move moneys around, we seek to insure that the needs will be met and we avoid the needless uncertainty of an absolute dollar forecast.

6. STATE PARTICIPATION

Under section 12 qualifying States would be given a block grant to administer for small commercial service airports and general aviation airports within their boundaries. $428.1 million over six years, would be allocated to the States for this purpose. All airports located in nonparticipating States would continue to apply to the Secretary of Transportation to obtain their project grants. The Committee believes this is an important provision in light of the increasing recognition of the necessity of turning over the management of Federal programs to States and local communities. Opposition to such a provision, which was evidenced in a prior hearing, was not reflected in this year's hearing. It has become apparent that many airport owners and operators are willing, indeed might prefer, to deal with the State rather than the Federal Government regarding airport aid financing. The States are already partners with the localities and the Federal Government in airport development in 46 States.

7. DEFEDERALIZATION

The bill creates incentives for larger airports to voluntarily withdraw from the airport development program. First by eliminating certain statutory and regulatory obligations associated with these grants and second by allowing airports which choose defederalization to continue to receive grants for land acquisition and noise abatement.

As stated in Report No. 97-97, May 15, 1981, the Commerce Committee believes that defederalization of the nation's largest airports will ultimately benefit airport operators and users by creating more efficient airports at lower cost to the public. However, the Commerce Committee also believes that a variety of questions remain about how this program would operate. Because of these questions, the major user groups and many of the larger airports that would be defederalized under S. 508, as previously reported, objected to defederalization if a passenger facility charge was authorized.

This bill requires the Secretary of Transportation to submit to Congress within one year of enactment a report on whether any airports should be excluded from the federal program. The report must also consider whether airports should be permitted to impose any form of passenger facility charge and how such a charge should be collected. On the basis of this report, the Aviation Subcommittee will consider whether further modifications to the airport development program are desirable.

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CBO Cost Estimate

The cost estimate of the Congressional Budget Office is not available at the time this report is filed, but will be submitted subsequently.

Regulatory Impact

In accordance with paragraph 11(b) of rule XXVI of the standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

One of the primary goals of the reported bill is to reduce the large amounts of redtape and paperwork that are associated with the current program. Under the new block grant program in section 12 of the bill, participating States will be able to receive moneys apportioned for certain airports within those States with a minimum amount of paperwork and delay. Moreover the States may then obligate these funds for airport development or airport planning without the need to comply with many of the regulations of the current program. These States are even free to establish their own State standards for airport development in lieu of many of the remaining Federal standards if such State standards are approved by the Secretary of Transportation.

The project grant program in sections 10 and 11 of the bill has also been amended to drop certain unnecessary requirements. This program has been further simplified by allowing airports to apply for a number of projects in a single application. Finally the administrative expense and paperwork associated with both the block grant and project grant programs should be greatly reduced by a new legislative provision requiring the Secretary of Transportation to rely on conclusionary certifications of compliance with program requirements whenever possible.

A final feature of the bill that will reduce Federal regulation is section 26 which permits airports to withdraw from the airport improvement program. As airports withdraw from the program it will improve the ability of the Federal Aviation Administration to service those airports that remain in the program. Moreover any airport that is "defederalized" may elect to terminate a large number of obligations and restrictions which currently apply to such airports under the terms of section 27 of the bill.

None of the provisions of the bill is expected to have an impact on the small effect of the current program on personal privacy. To the extent, however, that the Secretary relies on conclusionary certifications of compliance from project sponsors rather than lengthy and detailed submissions, personal privacy should be enhanced.

Section-by-Section Analysis

SHORT TITLE

Section 1

This section provides that the act may be cited as the "Airport and Airway System Development Act of 1982."

DECLARATION OF POLICY

Section 2

This section sets forth a declaration of policy. Specifically, section 2 would set forth as policies and findings: that the safe operation of the airport and airway system will continue to be the highest aviation priority; that the continuation of airport and airway improvement programs, including both development and planning activities, and more effective management and utilization of the Nation's airport and airway system are required to meet current and projected growth in aviation; that this Act should be administered so as to provide adequate navigation aids and airport facilities, including reliever airports, for points where scheduled commercial air service is provided; that aviation facilities should be built and operated with due regard to providing substantial relief from current and projected noise impacts on nearby communities; that airports which have the ability to finance their capital and operating needs without Federal assistance should be encouraged to voluntarily withdraw from eligibility for such assistance; and that the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of single project applications to cover all airport improvement projects.

DEFINITIONS

Section 3

This section lists the definitions applicable to the bill. Some of these definitions are identical to those in the present Act, some are entirely new and some contain modifications to existing definitions. Finally, some definitions in the present Act have been deleted.

Definitions Unchanged

The definitions of "airport," 3(1), "government aircraft," 3(13), "landing area," 3(14), "project costs," 3(19), "public airport," 3(22), and "Secretary," 3(25) are self-explanatory and identical to definitions in the present act.

Deletions

As a result of the enactment of the Airline Deregulation Act of 1978, which terminates the Civil Aeronautics Board effective January 1, 1985, and which terminates many of its functions at earlier dates, whether an airport is or is not served by an "air carrier certificated by the Civil Aeronautics Board" will soon cease to be an appropriate basis for making determinations regarding the distribution of Federal funds for airport and airway development and planning. Accordingly, this bill does not include the definitions of "air carrier airport," "commuter service airport," and "general aviation airport" found in the present act.

This bill would also delete the definitions in the present act of "planning agency," "airport master planning," and "terminal area," as either unnecessary or inappropriate in the context of the proposed legislation.

New and Modified Definitions

New definitions and definitions in the present act which would be modified are discussed below.

"Airport development"

Section 3(2). The definition of "airport development" in the present Act has been revised for clarity, to make technical and conforming changes, and to make certain items newly eligible for funding as airport development. These revisions would not exclude from eligibility any item eligible for funding as airport development under the present Act. There are, however, several noteworthy changes.

A conforming change has been made to this definition and other provisions of the bill to indicate that, under this bill, airport development funds may be used for projects at "public-use airports," section 3(23), which are privately owned. Under the present Act, only "public airports," airports owned by public agencies, may receive airport development funds.

Section 3(2)(A)(ii) would make the preparation of plans and specifications, including field investigations incidental thereto, eligible for funding as airport development. Presently, design and engineering activities of this nature may be funded as airport development only when the basic project for which these activities were undertaken has been completed.

Section 3(2)(B) contains several provisions which broaden the definition of airport development for environmental, safety or security reasons. Section 3(2)(B)(ii) makes newly eligible the acquisition or installation of safety or security equipment which the Secretary approves for use, even if the use of such equipment is not required by the Secretary. Section 3(2)(B)(vi) makes the acquisition or installation of aviation-related weather reporting equipment eligible. Presently, weather reporting equipment is eligible only if it can be classified as a navigation aid.

Section 3(2)(D) would set forth items eligible as airport development which are related to improving noise compatibility at public-use airports. These items are eligible under the present act. However, section 3(2)(E) would newly provide that the elements of airport noise compatibility programs approved by the Secretary are eligible as airport development. Section 3(5) defines an airport noise compatibility program as any such program described in section 104 of the Aviation Safety and Noise Abatement Act of 1979 (ASNA). Section 104 of ASNA sets forth that a noise compatibility program may include measures taken or proposed for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the geographic areas covered by a noise exposure map submitted by an airport operator pursuant to section 103 of ASNA. The list of measures set forth in section 104 of ASNA as possible elements of a noise compatibility program are not exclusive; section 3(2)(E) would permit a sponsor to seek funding for noise abatement projects beyond those listed in section 3(2)(D).

It should be noted however, that items listed in section 3(2)(D) would be eligible for funding as airport development even if a noise

compatibility program is not developed and approved by the Secretary pursuant to ASNA. This is consistent with the present Act, which allows a number of noise related items to be funded as airport development outside of the procedural framework of ASNA.

"Airport hazard"

Section 3(3). A minor conforming change has been made to the present Act's definition of "airport hazard;" the term "public-use airport" has been substituted for the term public airport.

"Airport noise compatibility planning"

Section 3(4) adds a new definition of "airport noise compatibility planning", defining such planning as the development of information necessary under sections 103 and 104 of the Aviation Safety and Noise Abatement Act of 1979.

"Airport noise compatibility program"

Section 3(5) would define an "airport noise conpatibility program" as any such program described in section 104 of the Aviation Safety and Noise Abatement Act of 1979. As noted in the discussion of "airport development," under section 3(2)(E), the elements of airport noise compatibility programs would be eligible for funding as airport development under this bill.

"Airport planning"

Section 3(6). "Airport planning" would be defined as such planning as the Secretary may prescribe by regulation, and specifically includes "airport system planning," section 3(7), and "airport noise compatibility planning," section 3(4). This definition would give the Secretary greater flexibility in determining the kinds of activities that would be eligible for funding as airport planning. All planning activities eligible as either "airport master planning" or "airport system planning" under the present Act would remain eligible.

"Airport system planning"

Section 3(7). The definition of "airport system planning" in the present Act would be modified to make explicit several concepts inherent in the present definition. The words "initial as well as continuing" have been inserted to clarify that airport system planning is a continuous process. The definition would also make eligible for funding as airport system planning a State's development of certain airport construction and development standards. Under section 16(g) of the present Act assistance to the States for this purpose is authorized separately rather than pursuant to the general authorization for airport development and planning.

"Applicant State"

Section 3(8). "Applicant State" are those States or equivalent jurisdictions which submit applications for block grants pursuant to section 12 of the bill.

"Block-grant"

Section 3(9). "Block-grant" would be a new definition, meaning a transfer, by the Secretary to a "participating State," of funds ap-

portioned to that State pursuant to section 8(a)(2), for distribution by such State for eligible airport development and planning projects in that State. Under the present Act, all grants for airport development and planning are made by the Secretary directly to a sponsor for project purposes, except for grants made pursuant to the State demonstration program of section 28.S.508 would authorize the Secretary to transfer funds to a State in the form of block grants for distribution by that State for project purposes.

"Block-grant supplement"

Section 3(10). A "Block-grant supplement," like a "block-grant", is a grant of funds from the Secretary to a "participating State". However, block-grant supplements would be grants of discretionary rather than apportioned funds. Under section 9(c)(1), applications for block-grant supplements must specify the projects for which discretionary funds are requested.

"Commercial service airport"

Section 3(11). The term "commercial service airport" is new. Any airport which the Secretary determines to either: (1) Enplane 2,500 or more passengers annually and receive scheduled passenger service of aircraft; or (2) enplane 10,000 or more passengers annually, is a commercial service airport. Whether an airport is a commercial service airport affects an airport sponsor's eligibility for funds apportioned under the various apportionment categories established under section 8 of the bill.

The lower limit of 2,500 passenger enplanements annually is an eligibility criterion under existing legislation for commuter service airports. The 2,500 level represents about 50 enplanements per week, each with five enplaned passengers.

The second criterion of 10,000 passengers, without scheduled service, is intended to accommodatae a very few airports that have substantial passenger volumes from charter flights but do not receive regularly scheduled passenger service.

The definition of "commercial service airport" does not include a factor for cargo activity, which is, of course, also a form of commercial service. This was not considered necessary since cargo activity for the most part closely parallels passenger activity, and cargo related needs can therefore be accommodated as an outgrouwth of providing adequate funding based on passenger enplanement levels. Any isolated cargo needs not so accommodated will have access to funding from the discretionary fund.

Approximately 750 airports would qualify as commercial service airports, including all existing air carrier airports (about 620) and many commuter service airports (about 130).

"Eligible airport"

Section 3(12) would be new and would define an "eligible airport" as an airport which is eligible to receive financial assistance under the bill. This definition has been included in the bill for purposes of clarifying the relationship of section 26 of the bill to other sections. Under section 26 airports may terminate their participation in the airport development program. The term "eligible airport" has been developed solely with reference to section 26; it does

not refer to airports which may be unable to receive assistance under this bill for other reasons, such as inability to comply with application requirements.

"Government aircraft"

Section 3(13). "Government aircraft" means aircraft owned and operated by the United States.

"Landing area"

Section 3(14). "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

"Passengers enplaned"

Section 3(15). "Passengers enplaned" means revenue passengers enplaned in the United States who are flying between domestic, territorial, or international points via aircraft, whether scheduled or nonscheduled. This definition is patterned closely after the definition of "passengers enplaned" found in the present Act (section 15(a)(6)), differing by its reference to passengers enplaned in "aircraft," rather than passengers enplaned by "air carriers." This change has been made to reflect a decision that an airport's eligibility for apportioned funds should be based upon how many revenue passengers are enplaned there, and not upon a regulatory label applied to the owner of the plane in which those passengers choose to fly.

This definition has operational significance for the new apportionment categories proposed in section 8. Under those apportionment categories, whether an airport is a "commercial service" or a "primary" airport is, in part, determinative of that airport's eligibility for Federal funds. Further, whether an airport is a commercial service or primary airport is a function of the number of pasengers enplaned at that airport.

"Participating State"

Section 3(16). "Participating State" would be a new definition and would refer to a State authorized by the Secretary to receive amounts from its section 8(b)(2) apportionment in the form of a block-grant, for distribution by that State for project purposes. To be authorized to receive block-grants (or to apply for supplements to block-grants from discretionary funds), a State must receive the Secretary's approval pursuant to section 12.

"Primary airport"

Section 3(17). "Primary airport" is a new term meaning any "commercial service airport," determined by the Secretary to have enplaned .01 percent or more of the total number of passengers enplaned annually, both scheduled and nonscheduled, at all commercial service airports. The term is significant in that under section 8(b)(1) of the proposal a primary airport sponsor receives an apportionment based on the number of passengers enplaned at the primary airport.

"Project"

Section 3(18). "Project" means a project or separate projects submitted together for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

"Project cost"

Section 3(19). These are any costs involved in accomplishing a project.

"Project grant"

Section 3(20). "Project grant" refers to a grant of funds by the Secretary to a sponsor pursuant to section 10 of the bill for the accomplishment of one or more projects.

"Public agency"

Section 3(21). The definition of "public agency" is nearly identical to the definition in the present act and means any State, or the government of certain other listed jurisdictions, or any agency or political subdivision of any of those States or listed jurisdictions, or any tax-supported organization, or an Indian tribe or pueblo. The phrase "tax-support organization" includes organizations which do not have taxing power, such as regional planning commissions and other planning agencies.

"Public airport"

Section 3(22). "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

"Public-use airport"

Section 3(23) "Public-use" airport is a new term meaning any "public airport," or any "reliever airport," whether publicly or privately owned, which is or is to be available for use by the public. This new term has been developed because this bill would newly provide that airport development and planning funds may be distributed for use not only at public airports, but also at privately owned reliever airports under certain conditions.

"Reliever airport"

Section 3(24). A "reliever airport" is defined as an airport designated by the Secretary as having the function of relieving congestion at a "primary airport," thereby broadening the definition of reliever airport found in the present act. This definition expands the concept of a reliever airport to include the rerouting of other than general aviation traffic from a primary airport.

"Secretary"

Section 3(25). "Secretary" means the Secretary of Transportation.

"Sponsor"

Section 3(26). A "sponsor" is any public agency which individually or jointly with other public agencies, submits to the Secretary, in accordance with this act, an application for financial assistance for a public airport. A "sponsor" can also be any private owner of a public-use airport which submits to the Secretary, in accordance with this act, an application for financial assistance for a public-use reliever airport. A sponsor can also be a participating State.

"State"

Section 3(27). "State" means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

"State development report"

Section 3(28). "State development report" would be defined as a list of projects funded by a participating State from funds apportioned pursuant to section 8(b)(2). It is not a planning document or a list subject to approval by the Secretary. The list would simply inform the Secretary how a State spends block-grant funds. One function of this report would be to allow the Secretary to determine how much money participating States will spend on reliever airports in a fiscal year, so that the Secretary could determine how much discretionary money must be spent on relievers in order to meet the minimum percentage for relievers set forth in section 8(b)(3).

"Trust Fund"

Section 3(24). "Trust Fund" means the Airport and Airways Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, as amended.

"United States share"

Section 3(30). "United States share" is that portion of the costs of projects for airport development or airport planning approved pursuant to section 17 of the bill which is to be paid from funds made available for the purposes of the bill.

NATIONAL AIRPORT SYSTEM PLAN

Section 4

Under provisions of this section, the Secretary shall review and revise as necessary the existing national airport system plan. The proposal would reduce the required content of the NASP by deleting the requirement in the present Act that the plan include "terminal area development considered necessary to provide for the efficient accommodation of persons and goods" at airport, regardless of whether such "terminal area" development was eligible for Federal funds under the Act. S. 508 would not require the plan to include development projects other than those eligible under the bill.

NAVIGATION AIDS

Section 5

Under the bill, the Secretary may require a sponsor, as a condition to receiving the grant, to perform certain site preparation work associated with the acquisition, establishment, or improvement of air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)). This section clarifies that the cost of any such work is to be paid for from appropriated funds made available to the Secretary for airway facilities and equipment under section 7(a) of the bill.

AIRPORT IMPROVEMENT PROGRAM

Section 6

Section 6(a) authorizes the Secretary to make grants for airport development and planning in aggregate amounts of $450 million for fiscal year 1982; $1,050 million for fiscal years prior to October 1, 1983; $1,650 million for the fiscal years prior to October 1, 1984; $2,250 million for the fiscal years prior to October 1, 1985; $3,299.4 million for the fiscal years prior to October 1, 1986; and $4,506.2 million for the fiscal years prior to October 1, 1987. This insures that unused funds in any given fiscal year are carried forward.

Section 6(b) precludes the Secretary from incurring obligations for airport development after September 30, 1985, except for apportioned funds which remain available under the provisions of section 9(b) of the bill after such date.

Section 6(c) precludes obligation for airport development at any airport that has elected not to receive such Federal assistance except as authorized under the provisions of section 26. Section 6(d) spells out the guidelines for obligations incurred by the Secretary for airport development at privately owned reliever airports.

AIRWAY IMPROVEMENT PROGRAM

Section 7

Section 7 authorizes appropriations from the Trust Fund for the procurement of air navigational facilities; research, engineering and development activities; payment of a portion of the operation and maintenance costs of the national airspace system; and other activities related to airway improvement. Section 7 will replace subsections 14(c)–14(f) of the present Act.

Section 7(a) provides Trust Fund authorizations for appropriations for the acquisition, establishment and other improvement of air navigation facilities. Under section 14(c) of the present Act, the authorization for appropriations for air navigation facilities for each fiscal year lapses at the end of the fiscal year to which it pertains. This subsection would permit such authorizations to be carried over or aggregated with the authorizations for the succeeding fiscal years covered in the proposed legislation (i.e., the 6 fiscal years 1982–87). Thus, under this proposal, to the extent that an expenditure for a given fiscal year is less than the authorization for that fiscal year, the excess authorization remains available to support an additional appropriation during a succeeding fiscal year,

through fiscal year 1987. Specifically, commencing with an authorization of $261 million for fiscal year 1982, new authorizations are added over the next 5 fiscal years as follows:

For fiscal year 1983—$725 million (aggregating $986 million for fiscal year 1982–83); for fiscal year 1984—$1,393 million (aggregating $2,379 million for fiscal years 1982–1984); for fiscal year 1985—$1,407 million (aggregating $3,786 million (aggregating $5,163 million for fiscal years 1982–86); and $1,164 million to fiscal year 1987 (aggregating $6,327 million for fiscal year 1982–1987).

Finally, it should be noted that the amounts authorized by this section represents a significant increase in the size of the program; the current Act authorized appropriations for $250 million for fiscal year 1980. The Commerce Committee believes these authorizations are of the highest priority as they directly impact aviation safety.

Section 7(b) provides annual authorizations for research, engineering, development and demonstrations, with all amounts appropriated pursuant to these authorizations remaining available for obligation until expended. The amount for these activities have been increased substantially to support the higher levels of activity necessary to proceed with the air traffic control modernization.

Section 7(c) is patterned after parts of section 14(e) of the present Act. Section 7(c) is identical to clause 14(e)(1) of the present Act and would provide that Trust Fund moneys may be appropriated for the United States' costs of financing certain international air navigation services and maintenance of the U.S. airways systems. It is appropriate that much of those costs be reimbursed from the Trust Fund.

The actual amounts authorized under this section would be $800 million in fiscal year 1982, $1,559 million in fiscal year 1983, $1,355 million in fiscal year 1984, $1,362 million in fiscal year 1985, $1,388 million in fiscal year 1986, and $1,444 million in fiscal year 1987.

These funds are mandatorily reduced by a like amount in the succeeding fiscal year to any reductions made in the minimum authorized levels for ADAP or F&E in any fiscal year covered by the bill.

Section 7(d) authorizes amounts to reimburse the National Oceanic and Atmospheric Administration for the cost of providing the FAA with weather reporting services. These amounts, which are to be from the Trust Fund amounts authorized in section 7(c), are limited to the following: $26,700,000 for fiscal year 1983, $28,569,000 for fiscal year 1984, $30,569,000 for fiscal year 1985, $32,709,000 for fiscal year 1986, and $34,998,000 for fiscal year 1987.

Sections 6(a) and 7(a) establish expenditure levels with the phrase "not less than nor more than", which is a change from current law which uses the language "not less than". The Commerce Committee has made this change in consideration of the Budget Committee's concern with open-ended authorizations. We wish to emphasize that we have specifically selected language which accommodates the budget problem, but which also maintains the clear legislative direction that these authorizations are legal minimum levels.

The amounts authorized from the Trust Fund in section 7 are projected to be about 75 percent of FAA's annual, non-ADAP budget levels.

APPORTIONMENT OF FUNDS

Section 8

This section specifies the manner in which the airport grant program funds authorized by section 6 are to be distributed among the various funding categories.

Under section 8(b)(1)(A), primary airports, defined as those enplaning .01 percent of the total number of enplanements per year (approximately 32,000 passengers or more) are apportioned a specific amount for each enplaned passenger. Section 8(b)(1)(C)(ii) restricts the total amount of money which can be made available on the basis of enplanements to 55 percent of $450 million in fiscal year 1982 and 50 percent of the available airport funds in 1983 through 1987. This provision only becomes effective if passenger enplanements at eligible primary airports increase to such an extent that more than the specified percentage would be required under the formula in 8(b)(1)(A). In that event, the amount made available is to be reduced across the board to all eligible primary airports so as not to exceed the 35 percent or 50 percent amount. This is to insure a continuing balance between amounts available based on enplanements and the discretionary fund. The amount apportioned to each airport under section 8(b)(1)(A) will be increased by 10 percent in fiscal 1984, 20 percent in fiscal 1985, 25 percent in fiscal 1986, and 30 percent in fiscal 1987.

Section 8(b)(2)(A) provides apportionments to the States and Insular Areas, for certain types of airports.

Apportionments are made under this section on the basis of a two part formula. Under the first part, section 8(b)(2)(A)(i), $54 million for each fiscal year, 1981 through 1985, is set aside. One percent of that total is set aside for use by non-States (Puerto Rico, etc.). The balance of the $54 million is to be divided among the States by a formula which gives equal weight to both the population and area of each State.

The second part of the formula provides that for each commercial service airport in a State which is eligible to receive funds apportioned under section 8(b)(2)(A), that State shall be apportioned $150,000 beyond its population/area apportionment in fiscal years 1982 and 1983. This amount increases by $90,000 over the next four years.

Section 8(b)(2)(B) requires a proportionate reduction in the total amount of money available to the States and Insular Areas in any fiscal year in which there is a reduction required in apportionments to primary airports.

Section 8(b)(3) establishes a discretionary fund for airport development and planning projects made up of funds not appropriated under paragraph 8(b)(1) and 8(b)(2). This fund is to be distributed at the discretion of the Secretary for projects at eligible airports, with the following provisions:

(1) In the period between October 1, 1981 and September 30, 1987, no less than $450 million of the funds apportioned shall be distributed to eligible reliever airports;

(2) Commercial service airports that are not primary airports and received Federal assistance for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970 would, during the 5-year period from October 1, 1982 to September 30, 1987, receive a minimum of 5 times that amount received for fiscal 1980 or 5 times the amount they would receive under the formula in 8(b)(1)(A), whichever is higher;

(3) Eligible public airports other than relievers or commercial service airports will receive no less than $300 million of discretionary funds during the period from October 1, 1981 to September 30, 1987.

The set-aside for nonprimary, commercial service airports in nonparticipating States is to be used only for "high priority" projects. It is the Commerce Committee's intent that the Secretary should, in implementing this section, publish a list of those types of projects which he deems to be of high priority so that airports eligible to receive funds under this provision can plan accordingly.

Paragraph 4 clarifies that the funds apportioned to the State of Alaska shall continue to be apportioned in the same manner they have been in the past.

For the purpose of section 8, passenger enplanements are defined as the number of passengers which boarded at an airport in the preceding calendar year.

USE OF APPORTIONED FUNDS

Section 9

Section 9(a) provides the "form of obligation" which the Secretary shall use to obligate funds apportioned under section 8 of the bill. In the case of eligible primary airports, the funds are to be obligated by way of project grants. In the case of participating States, the Secretary will make the amount apportioned to the State available for obligation by way of block grants. For those airports in section 8(b)(2) that are located in a nonparticipating State, the Secretary will make the apportionment to such airports available for obligation by way of project grants.

Section 9(b) establishes that, amounts apportioned under section 8 are available for obligation by grant agreement during the fiscal year for which it was first authorized to be obligated and the 2 fiscal years immediately following. This provision represents a modification of the provisions of the present Act. Under the present act, apportionments made for other than "air carrier airports" are available for obligation only during the fiscal year for which the apportioned funds were first authorized to be obligated and the fiscal year immediately following. Section 9(c) provides a sponsor with an opportunity to arrange for the use of funds apportioned to it at nearby airports which it does not sponsor. Under this provision, a sponsor could waive its apportioned funds so that the Secretary could make such funds available to the sponsor of another eligible public airport in the same geographic area.

Subsection (d) clarifies that nothing in the section is to be construed as authorizing the obligation by the Secretary or a participating State, of any funds at an airport that has voluntarily opted out of the program except as authorized by section 26.

PROJECT GRANTS: APPLICATION; APPROVAL

Section 10

This section provides some of the requirements which must be set forth in an application for a project grant for airport development or airport planning and requirements which must be met by the Secretary of Transportation before approving such project grant applications.

Section 10(a) sets forth who is eligible to apply to the Secretary for a project grant for airport development or airport planning with the proviso that no public agency may submit an application if such submission is prohibited by State law.

This section also provides that within 180 days of enactment a sponsor may submit a project-grant application for any project for which either an application had been filed before September 30, 1980, or if the project was carried out after September 30, 1980 and before enactment of this Act.

Section 10(b)(2) is intended to provide the Secretary with a tool to improve the management of the airport development planning program. In recent years, the Congress has established obligational ceilings on the overall airport development planning program levels. To administer the program within these ceilings, the FAA has had to freeze a portion of the program's discretionary funds, often until late in the fiscal year, to ensure that sufficient obligational authority is available to cover the cost of carryover entitlement projects that sponsors might propose. This has made program management difficult and has been frustrating to some sponsors who wish to move forward with projects funded from the discretionary category. This provision would allow the Secretary to require sponsors to notify the Secretary of which fiscal years they intend to apply for entitlement funds. Based on this notice, the Secretary could determine earlier in the year what discretionary funding can be made available and thus facilitate the administration of both the discretionary and entitlement programs. If a sponsor does not submit its notice regarding its use of entitlement funds by such time and in such form as the Secretary may prescribe, the Secretary could defer approval of any project grant application submitted by that sponsor until a subsequent fiscal year.

Paragraph 10(c)(1) provides conditions which must be met by the Secretary before project applications for airport planning or development may be approved. Clause (A) provides that the airport or airport planning must be undertaken only in connection with eligible public use airports included in the current national airport system plan. Clause (B) provides that the Secretary may not approve a project unless he finds it to be consistent with the objectives stated in the declaration of policy in the bill. This is a change from existing law in order to permit the Secretary to prevent the expenditure of airport development planning funds on less important projects when key safety and other needs specified in the

policy declaration remain unmet. Clause (D) provides that the Secretary may not approve a project grant application until he is satisfied that sufficient funds are available to cover costs not to be paid by the United States. Clause (E) specifies that the project will be completed without undue delay. Clause (F) requires that the sponsors submitting the project grant application must have legal authority to engage in the project as proposed and Clause (G) specifies that all project sponsorship requirements prescribed by or under the authority of the act have been or will be met.

Paragraph 10(c)(2) provides requirements which must be met before project grant applications for airport development may be approved by the Secretary. Clauses (A), (B), (C), and (D) are virtually identical to provisions found in the present Act and provide respectively that the Secretary may not approve projects unless: land needed for the project is owned or will be acquired by public agencies; the sponsor has first made sufficient provision for the installation of certain landing and navigation aids at the airport where the project is proposed; and the sponsor has given consideration to the interest of communities in or near the proposed project.

Section 10(c)(3) sets forth the standards which must be met before the Secretary may approve applications for project grants for airport development involving the location of an airport, an airport runway or major runway extension. Clause (A) requires a certification from the sponsor to the Secretary that there has been an opportunity for public hearings to consider the economic, social and environmental effects of the airport or runway location and whether or not such development is consistent with the goals and objectives of the localities' plans. Clause (B) requires the sponsor to submit a transcript of any such hearings to the Secretary upon request. Clause (C) requires the Secretary to consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any portion of the project which may have any significant impact on natural resources. This is a change from existing law in that under the present act the Secretary must consult with the Secretary of the Interior and EPA on all airport locations, runway locations and major runway extensio project applications, not just those which may have a "significant" impact on natural resources.

Under clause (D), if the Secretary finds that a project will have a significant adverse effect on natural resources he must, after complete review as a matter of public record, make a finding, in writing that no feasible and prudent alternative to the project exists and that all reasonable steps have been taken to minimize the adverse effects of such project.

Clause (E) continues the requirements of section 16(e) of the present act, requiring that applications for airport location or major runway projects must be accompanied by written certification from the Governor of the State in which the proposed project would be located, designed, constructed, and operated so as to comply with applicable air and water quality implementation plans.

Clause (F) authorizes the Secretary to condition approval of project grant applications of this type on compliance with applicable air and water quality standards during the construction phase of the project.

SPONSORSHIP REQUIREMENTS FOR PROJECT GRANTS

Section 11

This section sets forth requirements, in addition to those outlined in section 10, which must be met by sponsors before project grant applications may be approved. These continue many of the requirements and provisions of section 16 of existing law for certain nondiscrimination, safety and other reporting requirements for airport sponsors which accept Federal funds. Two new provisions were added. One is that airports receiving assistance under this program must dedicate all revenues generated by the airport for the capital operating costs of that airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and used for the transportation of passengers or property. This provision is designed to ensure that airport systems which are receiving Federal assistance are utilizing all locally generated revenue for the systems which they operate. Airports that are part of a unified ports authority are exempt from this requirement if covenents or assurances in previously issued debt obligations or controlling statutes require that these funds are available for use at other port facilities.

The language regarding "local facilities which are owned or operated by the owner or operator of the airport and used for the transportation of passengers or property" was included to make clear the Committee's intent that the requirement would not prohibit the use of revenues for the purpose of retiring indebtedness on consolidated bonds which have been used in some jurisdications to finance multimodal transportation facilities which are owned or operated by the owner or operator of an airport and used for transportation of passengers or property but which are not themselves airport facilities.

The second new provision relates to land acquired for noise compatability purposes. It requires that when such land is acquired, the sponsor must, at the earliest possible time, and subject to the retention or reservation of the interest or right necessary to ensure that the land is used only for purposes which are compatible with noise levels of the operation of the airport, use its best efforts to dispose of such land. When such land is disposed of the provision requires that the proceeds of the disposition shall be refunded to the United States for the Trust Fund on a basis proportionate to the U.S. share of the cost of acquisition of the land.

BLOCK GRANTS TO STATES

Section 12

This section permits States to apply to the Secretary to distribute the funds apportioned to that State for airport development. Before a State can qualify, its legislature must: elect to have the State participate in the block grant program; designate a State official or agency to be responsible for administering the program; and, agree to commit State funds equal to 10 percent of the Federal block grant awarded to the State.

It is the Committee's intent that a participating State may, at its option, require sponsors of airports eligible to receive block grant

funds to also obligate local funds in order to participate in the program.

The Secretary must find that the agency or official designated by the State is capable of administering the program, taking into consideration the resources made available to the designated State agency or organization. The State is required to have a State airport system plan which is drawn up according to criteria established by the Secretary. The State must assure the Secretary that funds made available to it by the Federal Government will not be used to replace local, State or other non-Federal funds that would otherwise be spent on airport projects.

The State participating in the block grant program must submit to the Secretary a report no later than the end of the third month of any fiscal year in which funds have been distributed to that State. The State must assure the Secretary that it will enforce compliance with required assurances at those airports which receive funds from the block grant program. The State must agree to monitor the compliance of airports which have received Federal funds under this program, and report to the Secretary any noncompliance with those assurances. After announcing its intention to distribute funds through a block grant program, the State must indicate to airport operators located within the State that it intends to apply to the Secretary for Federal funds. The Secretary may request States to submit information regarding enplanements and safety at public use airports within the State if the data is not available from a federal agency. At any time, the Secretary may disallow State participation in the block grant program because of a failure to comply with any requirements of the Secretary.

States participating in the block grant program may distribute block grant funds only to eligible airports other than primary or reliever airports which are listed in the State airport system plan or in the national airport system plan. Block grant funds are to be spent only on airport planning and development projects as those terms are defined under section 3. Block grant funds may be distributed only to airports which are public-use general aviation airports and small commercial service airports (defined in section 3 of the act). In no case may State block grant funds be distributed to primary airports, private airports or defederalized airports.

A State may not use more than 1.5 percent of its annual apportionment in updating the airport system plan. Block grant funds may not be used to pay any administrative costs connected with the management of the block grant program.

A participating State which receives block grant funds must commit such funds within 1 fiscal year after the fiscal year in which it accepted block grant funds. If funds are not committed within such time period, the money must be returned to the Secretary and credited to the discretionary fund.

Projects completed by airports in participating States must meet standards established by the Secretary except that such State may establish their own standards for airport development which, if approved by the Secretary, would be applicable to projects using block grant funds. States are precluded from establishing State safety standards.

Under the current act, the State of Alaska has designated a State agency to be the recipient of all funds apportioned to the State under their block grant program. It is the Committee's intent that the State of Alaska continue to administer their State airport development program as they have in the past.

The National Environmental Policy Act of 1969 (NEPA) would not be applicable to the approval of a block grant application of a State since the block grant program is a type of revenue sharing program in which State apportionment funds are automatically distributed to an applicant State which meets the criteria specified in section 12. The State would decide which projects to fund with this money; no Federal decision would be involved. NEPA would be applicable, however, to the Secretary's approval of an application for a block grant supplement since approval of this type of application would be done on a project-by-project basis, solely at the discretion of the Secretary.

BLOCK GRANT SUPPLEMENTS

Section 13

This section permits States participating in the block grant program to apply to the Secretary for funds from the discretionary fund. In making application to the Secretary, States are required to indicate which projects the State wishes to fund with the block grant supplement and include with the application the State airport development report. The Secretary may fund any block grant supplement, in whole or in part, at his discretion. Conditions applying to block grant supplements are the same as those applying to block grants.

ACCEPTANCE OF CERTIFICATION; CONSULTATION

Section 14

This section requires that the Secretary put a maximum reliance on sponsor certification as a means of administering grants, under the bill. By accepting sponsor certification of assurances required by the grant program and maintaining an enforcement role to spot check the validity of such certifications, the committee believes a great deal of red-tape and delay can be eliminated without sacrificing compliance by sponsors. Considering that almost all sponsors are public agencies, the risk of overt violation of assurance is minimal and the deterrent effect of an enforcement procedure will provide the needed safeguard. It is the committee's intent that this new ability will allow the FAA to reduce the manpower and oversight now dedicated to the advance review of airport project grants.

This section also continues the requirement in existing law that airport operators receiving funds consult with parties using the airport prior to undertaking an airport development project.

This section allows the Secretary to require certifications from sponsors that they have complied or will comply with specified requirements. This differs from the comparable section of the Airport and Airway Development Act of 1970, as amended, which authorized the Secretary to accept, but not require, a certification. The change requires the Secretary to set forth those requirements for

which certification is appropriate, and to require all sponsors to make such certifications. As opposed to the prior permissive authority, this section would allow the Secretary to implement a more uniform national approach to certification.

GRANT AGREEMENTS

Section 15

This section outlines the duties of the Secretary and the sponsor of a project when project grants, block grants or block grant supplements are approved. The section provides that unless and until an agreement has been executed, the United States may not pay, or be obligated to pay any portion of the costs which have been or may be incurred in connection with a project. Further, the provision requires that the total obligation of the Federal Government may not exceed the amount specified as the maximum Federal obligation in the grant agreement, except in the case of airport development in which case such amount may be increased by 10 percent and by an additional amount equal to 50 percent of any increase in project cost attributable to land acquisition.

PROJECT COSTS

Section 16

Eligible project costs are those associated with carrying out the project, and which are directly connected to the costs of the project. Indirect costs, such as administrative and salary costs, are not permitted to be paid for as a part of the project costs. Costs are eligible if they were incurred after the contract grant agreement was signed and are consistent with the terms of the contract. The act permits funding for the cost of field surveys, preparation of plans and specifications, acquisition of land and other direct costs associated with an airport development or planning project. The Secretary may agee to pay for only those reasonable costs associated with the project. However, the Secretary cannot pay for costs which are in excess of the amount previously agreed to in the contract as the Secretary's share. In the event the Secretary wishes to audit project costs, he is permitted to establish whatever regulations considered necessary to that task.

The committee recognizes that significant costs can be incurred in designing the scope of work which must be submitted as part of the application for an airport planning project. Since these study designs must be submitted as part of the project application, it is the committee's intent that these costs would continue to be allowable as project formulation costs, as they were under the Airport and Airway Development Act of 1970, as amended.

In the case of primary airports, up to 50 percent of the project cost, but no more than the greater of $200,000 or 60 percent of an airport's entitlement apportioned under section 8(b)(1) may be approved for terminal development as defined in the bill. These funds can only be approved after all necessary safety, security, passenger enplaning/deplaning facilities, and equipment have been provided at the airport. In order to guard against the possibility of funding unnecessary project costs such as statues and art work, project

costs for the terminal must be directly related to the movement of passengers and baggage in the terminal area. This is a clarification of an ambiquity in the existing law. Permissible terminal costs may include multimodal terminal development and vehicles to assist in the movement of passengers within the terminal area.

U.S. SHARE OF PROJECT COSTS

Section 17

This section provides that, generally, the U.S. share of allowable project costs payable on account of any project funded under this act shall not exceed 90 percent of allowable project costs.

While it is expected that most, if not all projects will be 90 percent Federally funded, this legislation provides authority for the Secretary to provide funding at lower percentage levels. This authority may be used to spread Federal dollars over a greater number of projects.

For primary airports enplaning .25 percent or more of the total number of passengers enplaned annually at all commerical service airports, the U.S. share of allowable cost payable shall not exceed 75 percent of allowable project costs. Section 17(c) is identical to the corresponding section in the present act and provides for an increased Federal share of allowable project costs for projects in those States in which certain public land acreage exceeds 5 percent of the States total area.

PAYMENTS UNDER GRANT AGREEMENTS

Section 18

This section defines the terms under which advance payments may be made to airport sponsors by the Secretary. This closely follows section 21 of the existing law. The time and amount are to be determined by the Secretary with the total amount committed not to exceed 90 percent of the project cost. The sponsor must certify that advance payments will not exceed allowable project costs. If they do, the sponsor must return the excess to the Secretary. If work for the project is not completed within a reasonable time, the Secretary is entitled to reclaim any part of the advance payment.

PERFORMANCE OF CONSTRUCTION WORK

Section 19

This section entitles the Secretary to inspect and approve any construction work accomplished with funds obligated under project grants.

It provides that contracts in excess of $2,000 for work under project grants for airport development approved under the bill which involve labor shall comply with the Davis-Bacon Act. The section further provides that Vietnam era and disabled veterans are to be given preference in hiring (with the exception of executive, administrative and supervisory positions). These priority hiring requirements are only enforceable when such individuals are available and qualified to perform the work to which the emploment relates.

USE OF GOVERNMENT-OWNED LANDS

Section 20

This section closely follows section 23 of the current law. The Secretary is empowered to seek authority from the head of a department or agency having control over certain nonexempted public lands, to turn over to an airport sponsor for the purpose of meeting future airport development needs. The Secretary can reach agreement to transfer the title to, interest in, or an easement of such property or airspace to the airport sponsor. The head of the department or agency must respond to the Secretary's request within 4 months with a decision. If a determination is made that the title to or use of the land by the airport is not inconsistent with the needs of the department or agency, the land can be turned over, with the approval of the U.S. Attorney General, and without cost to the United States.

As in the existing act, these lands may not include any U.S. owned or controlled national park, forest, monument, recreation area, or other area administered by the National Park Service, the National Wildlife Refuge System, or the Bureau of Sport Fisheries and Wildlife. This exemption also includes Indian reservations.

FALSE STATEMENTS

Section 21

This section duplicates section 25 of the present law. It allows for the imprisonment of up to 5 years, or a fine of up to $10,000, or both, for any person who attempts to willfully defraud the United States, by making false statements or representations with respect to the cost, quality or quantity of material provided in connection with an airport project constructed with Federal funds.

ACCESS TO RECORD

Section 22

This section imposes the same requirements as section 26 of the existing law. Grant recipients are required to keep detailed and complete accounts of all costs and work performed in connection with an airport project in order to facilitate an effective audit.

The Secretary may establish recordkeeping requirements which are considered necessary to ensure an effective audit, and these requirements must be reviewed annually. The Secretary and the Comptroller General of the United States are given authority to examine and audit any records or papers pertinent to grants under the bill.

In the case where an independent audit is performed in association with a Federal project, a certified copy of the audit must be filed with the Comptroller General of the United States within 6 months after the close of the fiscal year in which the audit was made. The Comptroller must make annual reports to Congress on or before April 15 each year with the results of these audits.

Congress is to have access to all information made available to the Secretary and the Comptroller General.

GENERAL POWERS

Section 23

This section gives the Secretary General authority to conduct public hearings, investigations and institute those regulations and procedures which he considers necessary to perform his duties under the bill. This duplicates section 27 of existing law.

CIVIL RIGHTS

Section 24

This section gives the Secretary authority to promulgate regulations to ensure that no person is discriminated against on the basis of race, creed, color, national origin, or sex in connection with the work on a project supported by Federal funds released pursuant to the bill. This language tracks that of section 30 in the present law and is a responsibility in addition to those obligations set out in title VI of the Civil Rights Act of 1964.

JUDICIAL ENFORCEMENT

Section 25

This section is new and would make clear that the Secretary, acting through the Attorney General, has the right to obtain judicial enforcement against persons who violate the provisions of the bill or the rules, regulations, requirements or orders issued pursuant thereto. It would authorize litigation to obtain specific performance of grant agreements under the bill. By explicitly giving the Federal Government the right to proceed directly against anyone who violates the provisions of the act, whether in contractual privity with the Federal Government or not, this section puts potential violators on notice that the Federal Government intends to enforce compliance with the terms of the bill. Moreover, although the Commerce Committee fully recognizes that the Secretary may initiate suit and obtain specific performance of grant agreement assurances under existing law, section 25 capsulizes that authority within the text of the bill so that there may be no misunderstanding of this authority by those against whom compliance may be sought.

VOLUNTARY WITHDRAWAL FROM PROGRAM

Section 26

This section permits any airport to elect not to receive airport development funds. If an airport chooses to defederalize, it remains eligible for federal assistance for land acquisition and noise abatement.

Section 26(b) requires the Secretary of Transportation to conduct a study on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without federal assistance should remain eligible for airport development funds. The report must be submitted to Congress no later than one year from enactment of this bill. The study must review how a defederalization program might work and how a passenger facility charge might be imposed.

WAIVER OF OBLIGATIONS

Section 27

This section directs the Secretary to issue procedures pursuant to which airports which no longer receive airport development funds may exercise the airport's option to terminate existing assurances, requirements or contractual obligations that are tied to the acceptance of these funds. This does not include assurances which the Secretary receives as a condition to project sponsorship, as specified in section 13 of the bill, or in section 18 of the Airport and Airway Development Act of 1970 except as otherwise exempted. Section 27 prohibits any State or political agency of one or more States from reimposing assurances, obligations or requirements on an airport sponsor if the Secretary has released the sponsor from such assurances, obligations or requirements.

REPEALS; EFFECTIVE DATE; SAVINGS PROVISIONS; SEPARABILITY

Section 28

This section specifies that the effective date of the bill is its date of enactment and that on that date sections 1 through 31 of the Airport and Airway Development Act of 1970 are repealed. Subsection 28(c) includes a savings provision to permit certain sections of the 1970 act to continue in effect under the new bill, including one directed to keeping amounts apportioned before October 1, 1980 available for obligation. Such funds should be provided for in addition to the annual authorizations provided under this act. Obligational ceiling levels should be set sufficiently high to cover both the annual authorizations and any apportionment carryover. Carryover apportionments are not intended to reduce discretionary funds available in any fiscal year.

REPORT TO CONGRESS ON TRUST FUND

Section 29

This section modifies a provision in the existing law which requires an annual report to Congress on operations under the Airport and Airway Development Act of 1970. The report which has been prepared by the FAA for the past 11 years has contained more detailed information than required by the Congress to assess the status of the Airport and Airway Trust Fund. While much of the data contained in these reports will undoubtedly still be collected and maintained by the FAA in its management of the airport grant program, Congress does not require such a voluminous report. Accordingly, the section would make clear that a simple financial statement itemizing the income, obligations, expenditures, and uncommitted balance in the Airport and Airway Trust Fund would be sufficient in the future.

STANDARD FOR RUNWAY FRICTION

Section 30

This section amends section 612 of the Federal Aviation Act of 1958 regarding airport operating certificates. In section 612 the Ad-

ministrator of the Federal Aviation Administration is directed to impose on certificated airports such conditions and limitations as are determined to be necessary to insure safety in air transportation. This amendment would add grooving and other friction treatment of primary and secondary runways as an item to be considered by the Secretary in making this determination.

EQUAL AERONAUTICAL ACCESS

Section 31

This section of the bill amends section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349) to continue the same standard of access at any federally assisted airport that exists in current law. The language of the provision is modeled after that which is contained in existing sponsorship agreements now used by Secretary of Transportation in awarding grants-in-aid to federally assisted airports. It is intended that section 32 will continue the existing standard of access guaranteed under such sponsorship agreements, no more, or less.

It should be noted that the language in the provision stating that "nothing in the subsection shall be construed as prohibiting the owner or operator of an airport from (a) establishing such fair, equal, and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport; or (b) prohibiting or limiting any type, kind, or class of aeronautical use of such airport if such action is necessary for the operation of the airport or necessary to serve the civil aviation needs of the public" is included to continue the practice of allowing airports to establish reasonable conditions to be met by different types of users of airports. Such distinctions as are needed to make sure the airport may be safely and efficiently operated and meet the civil aviation needs of the public, are not to be considered unjustly discriminatory.

CONFORMING AMENDMENTS

Section 32

This section provides clarification of definitions for the Aviation Safety and Noise Abatement Act of 1979.

SECURITY SCREENING IN FOREIGN AIR COMMERCE

Section 33

This section extends through fiscal year 1982 existing law that authorizes an appropriation for unreimbursed security costs in international air transportation. Any appropriation made under this section is limited to not more than $9.75 million. The Secretary of Transportation is required to submit a recommendation to the Congress on amounts due specific air carriers under this section.

SAFETY CERTIFICATION OF AIRPORTS

Section 34

Under current law, the authority of the Administrator of the Federal Aviation Administration to issue airport operating certificates is limited to airports that are served by air carriers certificated by the Civil Aeronautics Board (CAB). Due to the sunset of the CAB and growing number of commuter air carriers, this definition is no longer workable. This section substitutes a new standard for airport certification based upon the number of revenue passengers enplaned (2,500 per year) or the size of air carrier aircraft using the facility (more than 30 passenger seats).

STATE TAXATION

Section 35

This section provides that States may not tax at a level which unreasonably burdens or discriminates against interstate commerce. The provision makes current law which prohibits the assessment, levying or collecting of taxes on motor carrier property in a manner different from that of other commercial and industrial property, applicable to air carriers.

PART-TIME OPERATION OF FLIGHT SERVICE STATIONS

Section 36

The purpose of this provision is to hold the FAA to its original schedule published in its master plan for the automated Flight Service Station program. This will assure that adequate services are available through the earliest period of the transition to the automated system.

CONGRESSIONAL COMMITTEES

Section 37

This section provides that nothing in the Act shall be construed as altering the jurisdiction of the Senate Commerce Committee or the House Public Works Committee over the Airport and Airway Development Program.

Changes in Existing Law

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of Rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by H.R. 4961, as reported by the committee).

ADDITIONAL VIEWS OF SENATOR PACKWOOD

One of the philosophic underpinning of the Administration's budget for fiscal year 1983 is increased reliance on user fee financing for government programs which benefit identifiable classes of users. One of the commendable aspects of the bill now being reported is that it puts a test before the Senate with respect to one important user fee area—the Airport Development Aid Program (ADAP).

The bill being reported to the Senate includes increases in the user taxes which are available to finance ADAP. In addition, at the request of the Commerce Committee, the bill also includes the Airport and Airway System Development Act. These substantive provisions are, of course solely in the jurisdiction of the Commerce Committee. However, including those provisions in this bill squarely puts the user fee philosophy before the Senate.

The most important aspect of the user fee philosophy is that the user fees and taxes are to be allocated to programs which benefit the persons paying the user fees. The ADAP package in this bill achieves this. However, one additional provision is needed to ensure that aviation user taxes are spent on the airport development program. On behalf of the Commerce Committee, I will offer an amendment to include this provision when this bill is on the Senate floor.

The amendment which I will offer provides a trigger to tie the aviation user taxes to spending for the airport development program. Specifically, the trigger will provide that if, in any fiscal year, the funds made available by the Congress for obligation under the airport development program are less than 85 percent of the authorized levels, then aviation user taxes and spending authority for the FAA's budget except for the airport development program, will terminate at the end of that fiscal year.

I believe that the trigger should be included as a part of the ADAP bill. It is incompatible with the user fee philosophy to continue raising aviation user taxes if the revenues are not being spent for the airport development. The integrity of the user fee approach exists only if the revenues are spent on the airport development program.

BOB PACKWOOD.